For people with limited time and a need to know.

Why Death Taxes Should Be Abolished

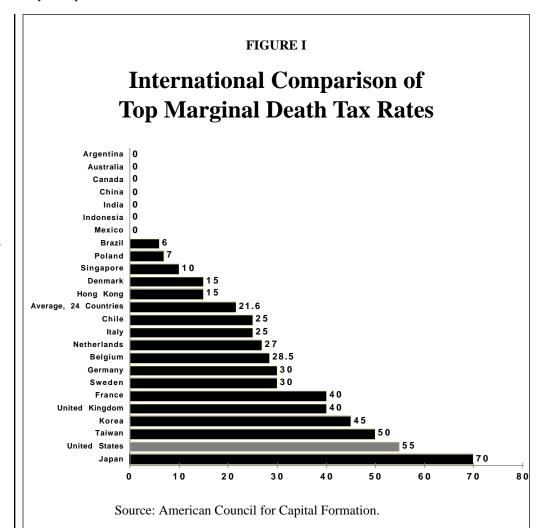
According to the Federal Reserve, household wealth in the United States has doubled in the last 10 years, from \$21.5 trillion in 1988 to \$43.2 trillion last year. Since the population has only risen by about 10 percent over this period, wealth per capita has increased enormously. To be sure, much of this increase accrued to those who were already rich. But the assets of the nonwealthy have also grown, especially if one includes assets held in 401(k) plans. Even those with modest incomes can now expect to have \$1 million or more at retirement if they save early and invest aggressively. That is why the estate tax will be an issue of contention for years to come.

At present, the estate tax applies to assets of \$650,000 or more at death. This figure is scheduled to rise to \$1 million in 2006, a rate of increase that barely keeps up with inflation. Although the lowest estate tax rate is 18 percent, because the exemption is in the form of a tax credit, those with estates larger than \$650,000 will pay 37 percent of each additional dollar to the federal government.

As Figure I shows, at 55 percent, the top estate tax rate in the U.S. is among the highest in the world. According to the American Council for Capital Formation in Washington, among major countries only Japan has a higher top rate, and it applies to estates of more than \$15.3 million, whereas the top U.S. rate hits at just \$3 million of assets. Even many countries with governments much more to the left than ours have estate tax rates that are signficiantly lower. Sweden has a 30 percent rate, Denmark has a rate half that, and Canada has no estate tax at all. (Canada does tax capital gains at death, which the U.S. does not, but the top capital gains rate there is still well below our top estate tax rate.)

Little wonder, then, that many baby boomers still in the prime of life are already fretting about how to avoid the estate tax. Talk show host Oprah Winfrey spoke for many when she told her audience, "I think it's so irritating that once I die, 55 percent of my money goes to the United States government....You know why that's so irritating? Because you have already paid nearly 50 percent [when the money was earned.]"

"Even those with modest incomes can now expect to have \$1 million or more at retirement if they save early and invest aggressively."



"A number of countries have already abolished the estate tax."

To be sure, not many people are in Miss Winfrey's tax bracket, but increasing numbers of Americans are falling into the estate tax net — a region once reserved for the truly wealthy.

The federal estate tax was first enacted in 1916 on estates larger than \$50,000 (the equivalent of \$720,000 today). The top rate was 10 percent. However, the revenue yield from the tax was small because people simply gave away their assets tax-free during their lifetimes. This led to establishment of a gift tax to augment the estate tax in 1924. Since 1976 the estate and gift taxes have been unified into one tax system.

The estate and gift tax is now the federal government's least significant revenue source. In fiscal year 1998 it raised just \$24.6 billion, according to the Treasury Department. With total federal revenues of \$1.8 trillion, the tax contributed just 1.3 percent. However, while the tax is insignificant in terms of federal revenue, it is very significant economically. It wastes resources. It discourages work, saving and investment. And it does virtually nothing to equalize the distribution of wealth. For these reasons, it should be abolished.

How the Death Tax Harms Family Businesses

Many farmers and small business owners earn relatively modest incomes even though the value of those farms and businesses make their estates subject to the estate tax. For example, Douglas Stinson, a tree farmer from Toledo, Wash., told the House Ways and Means Committee that the household income of the average tree farmer is less than \$50,000, but the typical tree farm can be valued at more than \$2 million. The result many times is that the heirs have to sell the farm or business to pay the estate tax. Stinson said 25,000 acres of prime forest land in Washington is converted to other uses each year, primarily to raise money to pay estate taxes.

The impact of the estate tax on small businesses can be devastating. According to a recent survey, 51 percent of family businesses would have significant difficulty surviving in the event of a principal owner's death, due to the estate tax. And 14 percent of business owners said it would be impossible for them to survive. Only 10 percent said the estate tax would have no effect.

This same survey found that 41 percent of business owners would have to borrow against equity to pay the estate tax and 30 percent said they would have to sell all or part of the business. Eighty-one percent of family businesses reported having taken steps to minimize the estate tax bite. These include purchasing life insurance, making lifetime gifts of stock, putting the business into trust or other arrangements.²

Recent academic research has also looked at the impact of the estate tax on small businesses. According to one study, its main effect is on business liquidity. Since most small businesses are undercapitalized to begin with, the estate tax can literally suck the life blood out of a business. Increasing the ability of entrepreneurs to leave an inheritance can greatly increase the chances of a small firm's survival.³ Other research found that the estate tax encourages small business owners to sell out or merge with large firms.⁴

The National Grocers Association, made up of independent grocers, said 27 percent of its family-owned members reported in a 1995 study that they would have to sell all or part of the business to pay estates taxes if the owner died.⁵

According to the National Federation of Independent Business: 6

- Only about 30 percent of family farms and businesses survive a first-to-second generation transfer, and only about 4 percent survive a second-to-third generation transfer.
- One-third of small business owners will have to sell outright or liquidate part of their firm to pay estate taxes.
- The failure of 90 percent of small businesses after the death of their founder can be traced to the burden of the inheritance tax.

"Due to the estate tax, 51 percent of family businesses would have difficulty surviving if the principal owner died."

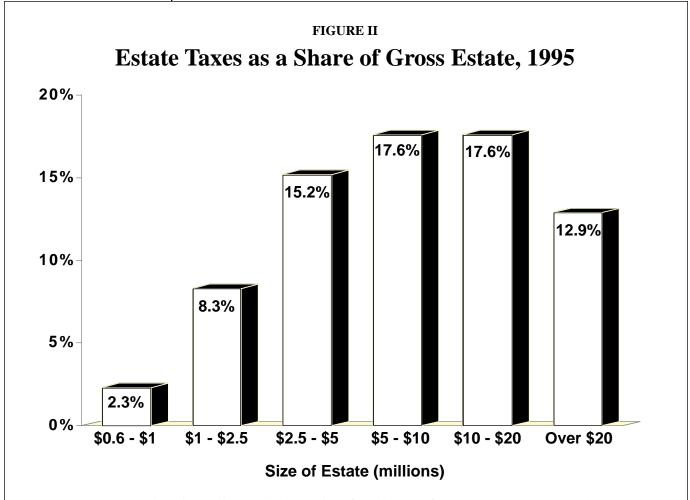
Why the Very Rich Pay Less

A fundamental rationale for the estate tax is that it is paid only by those who can most easily afford it; namely, the rich. However, because of legal estate planning techniques, much less of the tax actually falls on the very wealthy than is commonly believed.

- In 1995, 52 percent of all estate tax revenue came from estates under \$5 million.
- As Figure II illustrates, estate taxes as a share of gross estates actually fall for those with estates above \$20 million.

The reason for this disparity is that careful estate planning can virtually eliminate the tax. At the simplest level, individuals can give away up to \$10,000 per year per person free of gift tax. Also, there is a large deduction for gifts made to spouses, whose estates may be taxed separately. Thus for most married couples, the estate tax only applies to estates larger than \$1.3 million. Beyond that, there are a number of increasingly complex methods for reducing the burden of the estate tax. They include:

"The lawful methods of avoiding the estate tax make it essentially a voluntary tax."



Source: Martha Britton Eller, "Federal Taxation of Wealth Transfers, 1992-1995," *Statistics of Income Bulletin*, vol. 16, no. 3 (Winter 1996-1997), pp. 42, 46.

	TABLE I	
Estate and	Gift Tax	Revenues

<u>Year</u>	Estate Tax*	Percent	<u>Gift Tax</u> *	Percent	<u>Total</u> *
1997	17.6	86.3	2.8	13.7	20.4
1996	15.4	87.5	2.2	12.5	17.6
1995	13.3	88.1	1.8	11.9	15.1
1994	13.5	86.5	2.1	13.5	15.6
1993	11.4	88.4	1.5	11.6	12.9
1992	10.4	90.4	1.1	9.6	11.5
1991	10.2	88.7	1.2	10.4	11.5

^{*} Billions of dollars

Source: Internal Revenue Service, 1997 Data Book (Washington: U.S. Government Printing Office, 1998), p. 3; idem, 1993-94 Data Book (Washington: U.S. Government Printing Office, 1995), p. 5; idem, 1992 Annual Report (Washington: U.S. Government Printing Office, 1993), p. 25.

- Life insurance trusts.
- Qualified personal residence trusts.
- Charitable remainder trusts.
- Charitable lead trusts.
- Generation-skipping trusts.⁷

One indication of the growth of estate planning is the increase in the share of total estate and gift taxes being raised by the gift tax, as shown in Table I. By making gifts of stock or other assets during their lifetimes, any subsequent increase in their value will no longer be part of the estate.

So effective are these methods of avoiding estate taxes that Professor George Cooper of Columbia University says that the estate tax essentially is a voluntary tax. As he wrote, "The fact that any substantial amount of tax is now being collected can be attributed only to taxpayer indifference to avoidance opportunities or a lack of aggressiveness on the part of estate planners in exploiting the loopholes that exist." Economists Henry Aaron and Alicia Munnell put it even more bluntly. In their view, estate taxes aren't even taxes at all, but "penalties imposed on those who neglect to plan ahead or who retain unskilled estate planners."

However, as Figure II makes clear, the ability to exploit existing taxavoidance techniques is not uniform across estates. Those with the largest estates clearly have the greatest ability to engage in estate planning. This is because many estate planning techniques are costly and require long leadtimes to implement. And families with long histories of wealth are more likely

[&]quot;A disproportionate burden of the estate tax often falls on those with recently acquired, modest wealth: farmers, small businessmen and the like."

to be familiar with them. Thus a disproportionate burden of the estate tax often falls on those with recently acquired, modest wealth: farmers, small businessmen and the like. In many cases their incomes may not have been very high and they died not even realizing that they were "rich."

The reason those with larger estates are more likely to engage in complex estate planning is, of course, that they pay higher marginal tax rates on their assets. However, the same general principle applies to the estate tax in general. Research shows that during periods when estate tax rates were rising, revenue from the estate tax fell. Conversely, lower estate tax rates increased estate tax revenue, because it was no longer as profitable to engage in costly estate planning. Estate planning is costly, not just in terms of lawyers fees and the like, but also because assets placed in trust may not earn as high a rate of return as they would under the original owner's control. 11

How the Tax Lowers Other Tax Revenue

The impact of estate planning goes beyond the estate tax and affects the income tax as well. For example, under a charitable remainder trust one donates assets to a tax-exempt institution but retains the income from the assets until death. Not only are the assets fully shielded from the estate tax, but the charitable donation reduces one's income taxes as well. Because of such interactions between the estate tax and the income tax, Professor B. Douglas Bernheim of Stanford University believes that lost income tax revenue may offset all of the revenue from the estate tax.¹²

While expressing some skepticism about the magnitude of the effect Bernheim identifies, Professor Edward McCaffery of the University of Southern California believes that the impact of the estate tax may be even larger for other reasons. In particular, McCaffery believes that the impact of the estate tax on economic growth may be significant, by reducing the incentive to work, save and invest. For example, he points out that if one's prime motivation is to leave a large estate to one's children, then the effective marginal tax rate on investment and labor is the income tax rate plus the estate tax rate. This rate can go as high as 73 percent at the federal level alone (39.6 percent top income tax rate plus 55 percent estate tax rate on the remainder), with state income taxes pushing it higher still. And McCaffery goes on to point out that these negative effects on saving and work effort are not limited to the very rich. Insofar as the estate tax encourages gifts to one's children during one's lifetime, it may have the effect of reducing their work and saving as well.¹³

Recent research indicates that the estate tax has a much greater impact on the behavior of the living than previously thought. Parents often use the promise of a bequest to influence the behavior of their children. They also may use bequests to equalize the financial well-being of their children. Thus the desire to leave a large estate is one of the primary motivations for working

"Lost income tax revenue may offset all of the revenue from the estate tax."

and saving later in life. To the extent that the estate tax reduces a parent's ability to leave an estate to his children, it will have a negative effect on his interest in accumulating wealth through work, saving and investing.¹⁵

The Effect of the Tax on Capital

With intergenerational transfers accounting for as much as 80 percent of the nation's capital stock, according to a study by Laurence Kotlikoff and Lawrence Summers, this means that the estate tax is a direct tax on capital. ¹⁶ Since the capital stock *is* the nation's wealth, it is reasonable to say that the nation's capital stock is automatically reduced by at least the amount of the tax. The effect on capital stock is even larger if it reduces the savings rate as well. ¹⁷

Of course, anything that reduces capital formation in the economy ultimately makes everyone poorer. That is why economists historically have warned against estate taxes.

Adam Smith: "All taxes upon the transference of property of every kind, so far as they diminish the capital value of that property, tend to diminish the funds destined for the maintenance of productive labor." ¹⁸

David Ricardo: "It should be the policy of governments...never to lay such taxes as will inevitably fall on capital; since by so doing, they impair the funds for the maintenance of labor, and thereby diminish the future production of the country." ¹⁹

C.F. Bastable: "Succession duties first of all possess the grave economic fault of tending to fall on capital or accumulated wealth rather than on income; they therefore may retard progress."²⁰

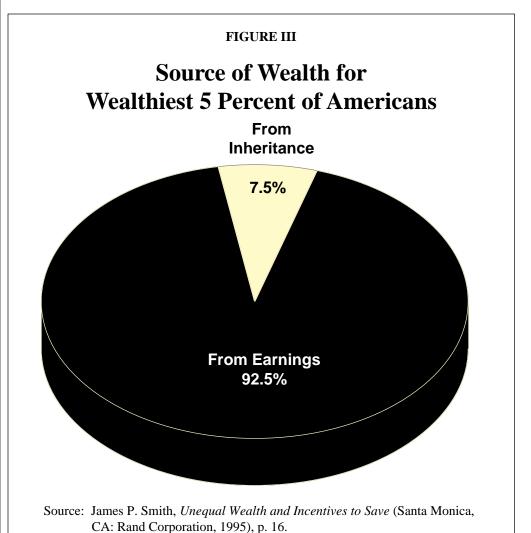
By contrast, those wishing to destroy the capitalist system have always been enthusiastic supporters of heavy estate taxes. It is worth remembering that the third plank of *The Communist Manifesto* says that the right of inheritance should be abolished.²¹ Even today, there are those who believe it is immoral to allow people to inherit anything.²²

Ironically, the negative impact of the estate tax on saving and capital formation negates much of the redistributive effect of the tax. According to an article by Joseph Stiglitz, former chairman of the Council of Economic Advisers under President Clinton, to the extent that the estate tax lowers the capital stock it raises the return to the remaining capital. Since the rich already own most of the existing capital, the effect of the estate tax is to actually make them richer.²³

Indeed, existing high estate tax rates appear to do virtually nothing to equalize the distribution of wealth.²⁴ Recent studies, in fact, have argued that wealth has never been more unequal than it is today.²⁵ One reason why estate taxes have less impact on wealth distribution than people imagine is that

"Existing high estate tax rates appear to do virtually nothing to equalize the distribution of wealth." inheritances constitute less of the wealthy's assets than is usually thought. As Figure III shows, for those in the top 5 percent of the wealth distribution, inheritances make up only 7.5 percent of their wealth. Indeed, even among the super-rich, inheritance counts for less than commonly believed. According to one study, of the 265 separate fortunes represented by the *Forbes* 400, 157 or 59 percent were new wealth. Only 108 or 41 percent were inherited.²⁶ Another study concluded that 75 percent to 85 percent of the rich throughout American history were self-made.²⁷

Finally, the estate tax imposes large dead weight costs on the economy. First is the cost of employing large numbers of Internal Revenue Service agents to collect estate and gift taxes. Second is the cost of employing legions of tax lawyers to avoid the tax. Aaron and Munnell report that some 16,000 members of the American Bar Association cite trust, probate and estate law as their primary area of concentration. They conclude that compliance costs alone may eat up a sizable fraction of all estate tax revenues.²⁸ On the other hand, one commentator has suggested that the government may get more revenue from taxing the incomes of estate tax planners than from the estate tax itself!²⁹



"The impact of the estate tax on the distribution of wealth is limited because inheritances constitute little of most wealthy people's assets."

Conclusion

As part of the Financial Freedom Act of 1999, Congress has approved phasing out the death tax by 2010. However, President Clinton has vowed to veto the bill, which would leave the current death tax provisions in effect. If the president carries through on his threat, this will leave the United States with the second highest tax rate on estates of any nation.

But more significant than the tax rate is the effect of the tax itself. It has almost no virtues. It raises little if any net revenue for the government, it has little effect on the estates of the very rich and its burden falls most heavily on family farms and businesses. To pay the estate tax, heirs often sell for development land that might have otherwise remained farmland or forest.

There is no good reason to retain the death tax, and many reasons it should be eliminated now. One unfortunate feature of the bill passed by Congress is that the tax will not be eliminated completely until 2010.

Bruce R. Bartlett Senior Fellow

"There is no good reason to retain the death tax."

NOTE: Nothing written here should be construed as necessarily reflecting the views of the National Center for Policy Analysis or as an attempt to aid or hinder the passage of any bill before Congress.

Notes

- ¹ Douglas P. Stinson, Testimony before the House Committee on Ways and Means, hearing on reducing the tax burden, January 28, 1998.
- ² Travis Research Associates, *Federal Estate Tax Impact Survey* (Costa Mesa, CA: Center for the Study of Taxation, June 1995).
- ³ Douglas Holtz-Eakin, David Joulfaian, and Harvey Rosen, "Sticking It Out: Entrepreneurial Survival and Liquidity Constraints," *Journal of Political Economy*, vol. 102, no. 1 (February 1994), pp. 53-75. See also Patrick Fleenor and J.D. Foster, *An Analysis of the Disincentive Effects of the Estate Tax on Entrepreneurship* (Washington, DC: Tax Foundation, 1994).
- ⁴ Chelcie C. Bosland, "Has Estate Taxation Induced Recent Mergers?" *National Tax Journal*, vol. 16, no. 2 (June 1963), pp. 159-168; Harold M. Somers, "Estate Taxes and Business Mergers: The Effects of Estate Taxes on Business Structure and Practices in the United States," *Journal of Finance*, vol. 13, no. 2 (May 1958), pp. 201-210.
- ⁵ Skylar Thompson, Testimony before the House Committee on Ways and Means, hearing on reducing the tax burden, June 16, 1999.
- ⁶ National Federation of Independent Business, "Death (estate) tax reform," available at http://www.nfibonline.com/politics/issue-archive/taxes/etib.html.
- ⁷ Even the popular press now discusses exotic estate planning techniques with regularity. See Louise Nameth, "Who Will Get Your Wealth: Your Kids or the IRS?" *Fortune* (March 17, 1997), p. 195-96; Christopher Drew and David Kay Johnston, "For Wealthy Americans, Death Is More certain Than Taxes," *New York Times* (December 22, 1996); Lynn Asinof, "Estate-Planning Techniques for the Rich," *Wall Street Journal* (January 11, 1995).
- ⁸ George Cooper, A Voluntary Tax? New Perspectives on Sophisticated Estate Tax Avoidance (Washington: Brookings Institution, 1979), p. 4.
- ⁹ Henry J. Aaron and Alicia H. Munnell, "Reassessing the Role for Wealth Transfer Taxes," *National Tax Journal*, vol. 45, no. 2 (June 1992), p. 138.
- ¹⁰ Kenneth Chapman, Govind Hariharan and Lawrence Southwick, Jr., "Estate Taxes and Asset Accumulation," *Family Business Review*, vol. 9, no. 3 (Fall 1996), pp. 253-268.
- ¹¹ Christopher E. Erblich, "To Bury Federal Transfer Taxes Without Further Adieu," *Seton Hall Law Review*, vol. 24, no. 4 (1994), pp. 1953-56.
- ¹² B. Douglas Bernheim, "Does the Estate Tax Raise Revenue?" in Lawrence H. Summers, ed., *Tax Policy and the Economy*, vol. 1 (Cambridge: MIT Press, 1987), pp. 113-138. It should also be noted that lawyers' and accountants' fees for estate planning can, in many cases, be deducted from one's income taxes, which is another way in which the estate tax reduces income tax revenues.
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- ¹⁴ Nigel Tomes, "The Family, Inheritance, and the Intergenerational Transmission of Inequality," *Journal of Political Economy*, vol. 89, no. 5 (October 1981), pp. 928-958; Jere R. Behrman, Robert A. Pollak, and Paul Taubman, "Parental Preferences and Provision for Progeny," *Journal of Political Economy*, vol. 90, no. 1 (February 1982), pp. 52-73.
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- ¹⁶ Laurence J. Kotlikoff and Lawrence H. Summers, "The Role of Intergenerational Transfers in Aggregate Capital Formation," *Journal of Political Economy*, vol. 89, no. 4 (August 1981), pp. 706-732. See also William G. Gale and John Karl Scholz, "Intergenerational Transfers and the Accumulation of Wealth," *Journal of Economic Perspectives*, vol. 8, no. 4 (Fall 1994), pp. 145-160; Thomas A. Barthold and Takatoshi Ito, "Bequest Taxes and Accumulation of Household Wealth: U.S.-Japan Com-

parison," in Takatoshi Ito and Anne O. Krueger, eds., *The Political Economy of Tax Reform* (Chicago: University of Chicago Press, 1992), pp. 235-290. Summers, a former Harvard economist, is now Secretary of the Treasury.

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- ¹⁸ Adam Smith, *The Wealth of Nations* (New York: Modern Library, 1937), p. 814.
- ¹⁹ David Ricardo, On the Principles of Political Economy and Taxation (New York: Cambridge University Press, 1951), p. 153.
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- ²⁸ Aaron and Munnell, "Reassessing the Role for Wealth Transfer Taxes," p. 138.
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About the NCPA

The National Center for Policy Analysis is a nonprofit, nonpartisan research institute founded in 1983 and funded exclusively by private contributions. The mission of the NCPA is to seek innovative private-sector solutions to public policy problems.

The center is probably best known for developing the concept of Medical Savings Accounts (MSAs). Sen. Phil Gramm said MSAs are "the only original idea in health policy in more than a decade." Congress approved a pilot MSA program for small businesses and the self-employed in 1996 and voted in 1997 to allow Medicare beneficiaries to have MSAs.

In fashioning the 1997 budget deal, members of Congress relied on input from the NCPA's Center for Tax Policy. The Balanced Budget Act incorporated many key NCPA ideas, including the capital gains tax cut and the Roth IRA. Both proposals were part of the pro-growth tax cuts agenda contained in the Contract with America and first proposed by the NCPA and the U.S. Chamber of Commerce in 1991. Two other provisions — an increase in the estate tax exemption and the abolition of the 15 percent tax penalty on excess withdrawals from pension accounts — also reflect NCPA proposals.

The NCPA has also developed the concept of taxpayer choice — letting taxpayers rather than government decide where their welfare dollars go. Sen. Dan Coats and Rep. John Kasich have introduced a welfare reform bill incorporating the idea. It is also included in separate legislation in the House sponsored by Rep. Jim Talent and Rep. J.C. Watts.

Another important area is entitlement reform. NCPA research shows that elderly entitlements will require taxes that take between one-half and two-thirds of workers' incomes by the time today's college students retire. A middle-income worker entering the labor market today can expect to pay almost \$750,000 in taxes by the time he or she is 65 years of age, but will receive only \$140,000 in benefits — assuming benefits are paid. At virtually every income level, Social Security makes people worse off — paying a lower rate of return than they could have earned in private capital markets. To solve this problem, the NCPA has developed a 12-step plan for Social Security privatization.

The NCPA has also developed ways of giving parents the opportunity to choose the best school for their children, whether public or private. For example, one NCPA study recommends a dollar-for-dollar tax credit up to \$1,000 per child for money spent on tuition expenses at any qualified nongovernment school — a form of taxpayer choice for education.

The NCPA's Environmental Center works closely with other think tanks to provide common sense alternatives to extreme positions that frequently dominate environmental policy debates. In 1991 the NCPA organized a 76-member task force, representing 64 think tanks and research institutes, to produce *Progressive Environmentalism*, a pro-free enterprise, pro-science, pro-human report on environmental issues. The task force concluded that empowering individuals rather than government bureaucracies offers the greatest promise for a cleaner environment. More recently, the NCPA produced *New Environmentalism*, written by Reason Foundation scholar Lynn Scarlett. The study proposes a framework for making the nation's environmental efforts more effective while reducing regulatory burdens.

In 1990 the center created a health care task force with representatives from 40 think tanks and research institutes. The pro-free enterprise policy proposals developed by the task force became the basis for a 1992 book, Patient Power, by John Goodman and Gerald Musgrave. More than 300,000 copies of the book were printed and distributed by the Cato Institute.

A number of bills before Congress promise to protect patients from abuses by HMOs and other managed care plans. Although these bills are portrayed as consumer protection measures, NCPA studies show they would make insurance more costly and increase the number of uninsured Americans. An NCPA proposal to solve the problem of the growing number of Americans without health insurance would provide refundable tax credits for those who purchase their own health insurance.

NCPA studies, ideas and experts are quoted frequently in news stories nationwide. Columns written by NCPA experts appear regularly in national publications such as *The Wall Street Journal*, *The Washington* Times and Investor's Business Daily. NCPA Policy Chairman Pete du Pont's radio commentaries are carried on 290 radio stations across America. The NCPA regularly sponsors and participates in *Firing Line Debate*, which is aired on 302 public broadcasting stations. The NCPA additionally sponsors several one-hour televised debates on the PBS program DebatesDebates shows each year.

According to Burrelle's, the NCPA reached the average household 10 times in 1997. More than 35,000 column inches devoted to NCPA ideas appeared in newspapers and magazines in 1997. The advertising value of this print and broadcast coverage was more than \$90 million, even though the NCPA budget for 1997 was only \$3.6 million.

The NCPA has one of the most extensive Internet sites for pro-free enterprise approaches to public policy issues. All NCPA publications are available on-line, and the website provides numerous links to other sites containing related information. The NCPA also produces an on-line journal, Daily Policy Digest, which summarizes public policy research findings each business day and is available by e-mail to anyone who requests it.

What Others Say about the NCPA

"...influencing the national debate with studies, reports and seminars."

— TIME

"...steadily thrusting such ideas as 'privatization' of social services into the intellectual marketplace."

— CHRISTIAN SCIENCE MONITOR

"Increasingly influential."

— EVANS AND NOVAK